

Docket No. PHUS-100

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re CONTINUATION IN PART patent application of:

FAOUR, J. et al.

Serial No.: 10/643,011

Filed: 08/18/2003

Group Art Unit: 1615

Examiner: Humera Sheikh

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JUL 07 2006

For: Drug delivery device containing pseudoephedrine and an H1 antagonist

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. BOX 1450
Alexandria, VA 22313-1450

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being sent via facsimile transmission to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 at 571-273-0604 on July 7, 2006.

Rick Martin

Typed or printed name of person sending paper

Signature of person sending paper

Sir:

COMMUNICATION

Applicants request that this communication be fully considered and entered into the record of the above-identified patent application.

Claims 1-39 remain pending in this application pursuant to the Preliminary Amendment filed August 1, 2005. All claims remain unchanged.

During the telephone interview of July 6, 2006 between the undersigned and the examiner, the merits of the application were discussed. Examiner indicated that instant claims 1-39 were deemed to be provisionally rejected under the judicially created doctrine of obviousness-type double patenting over the claims of U.S. Patent No. 6,613,357. Examiner indicated that the rejection could be overcome by the filing of a terminal disclaimer over the '357 Patent.

Applicants hereby submit a terminal disclaimer citing the '357 Patent. Accordingly, Applicants request that the provisional rejection has been overcome and that it be withdrawn.

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Applicants respectfully submit that this application is now in form for allowance and an early notice of allowance is requested.

Respectfully submitted,

Date:


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